




COMMUNICATION UPDATE

TO:	Mayor and Members City Council
DATE:	November 24, 2023
SUBJECT:	Opposition to the Environmental Permissions Modernization Policy Proposals, Hamilton Water Response - HW.23.10
WARD(S) AFFECTED:	City Wide
SUBMITTED BY:	Nick Winters Director, Hamilton Water Public Works Department
SIGNATURE:	

The purpose of this Communication Update is to provide Council with an update on comments that Hamilton Water submitted related to proposed changes by the Ministry of Environment, Conservation and Parks to its approvals and permissions procedures relating to stormwater works, water taking and waste management systems. Specifically, this Communication Update addresses the Council Follow Up Notice request dated October 26, 2023, to provide Council with an update on comments submitted to the Environmental Registry of Ontario.

Background

In September 2023, the Ministry of Environment, Conservation and Parks posted the following postings on the Environmental Registry of Ontario (ERO) related to proposed changes to approvals and permissions procedures relating to stormwater works, water taking and waste management systems:

- ERO Posting #019-6928 - Streamlining Environmental Permissions for Stormwater Management Under Environmental Activity and Sector Registry;
- ERO Posting #019-6853 - Streamlining Permissions for Water Takings for Construction Site Dewatering Activities and Foundation Drains; and
- ERO Posting #019-6963 - Streamlining Environmental Permissions for Waste Management Systems under the Environmental Activity and Sector Registry

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Opposition to the Environmental Permissions Modernization Policy
Proposals, Hamilton Water Response – HW.23.10 (City Wide)
– Page 2 of 4**

Hamilton Water's comments on the above listed Environmental Registry of Ontario postings were submitted on October 30th, 2023 and are included as Appendix "A" to Communication Update HW.23.10.

Proposed Changes

If approved, ERO Posting #019-6928 - Streamlining Environmental Permissions for Stormwater Management Under Environmental Activity and Sector Registry would permit owners of certain privately owned stormwater management works to self-register the works on the Environmental Activity and Sector Registry and exempt the works from approvals under Ontario Regulation 525/98 of the *Ontario Water Resources Act*. In addition, this change would exempt these works from requirements of Ontario Regulation 287/07 under the *Clean Water Act*.

Ministry of Environment, Conservation and Parks is currently responsible for issuing Environmental Compliance Approvals for stormwater. In addition, Halton-Hamilton Source Protection Plan includes prescribed instrument policies addressing stormwater that require the province to ensure compliance with the applicable policies. The Environmental Registry of Ontario posting as drafted, would require a Licensed Engineer Practitioner to undertake a site-specific technical assessment to determine whether the stormwater works were a significant drinking water threat in the relevant Source Water Protection Plan.

If determined to be a significant drinking water threat, the Licensed Engineer Practitioner would be required to consider additional design measures and other requirements to mitigate the threat. Hamilton Water staff's concern is that the proposal would transfer oversight to the proponent and be inconsistent with applicable policies of the Halton-Hamilton Source Protection Plan. In addition, transferring the stormwater works from the Environmental Compliance Approvals process to the Environmental Activity and Sector Registry provides a lack of provincial oversight and may weaken protections for sources of drinking water.

Additional concerns of Hamilton Water staff are that:

- There is a limited number of Licensed Engineer Practitioner's familiar with drinking water source protection and that there is no requirement for Licensed Engineer Practitioners to complete training related to significant drinking water threats in advance of the work;
- Municipalities will not be aware of the monitoring and operating requirements of new private stormwater works;

SUBJECT: Opposition to the Environmental Permissions Modernization Policy Proposals, Hamilton Water Response – HW.23.10 (City Wide)
– Page 3 of 4

- The Environmental Activity and Sector Registry framework removes any right to appeal if Hamilton Water has concerns regarding the Licensed Engineer Practitioner's technical assessment; and
- The Environmental Registry of Ontario posting does not include any details related to the proposed audits of the Environmental Activity and Sector Registry and inspections of the stormwater works by the Ministry of the Environment, Conservation and Parks.

Overall, improperly designed and operating stormwater works may be assumed by the City of Hamilton in the future and therefore additional oversight of the proposed works is preferred.

The Environmental Registry of Ontario posting also includes expansion of exemptions under Ontario Regulation 525/98 for certain low risk sewage works to obtain an Environmental Compliance Approval. The exemptions are proposed to permit all Low Impact Development works as well as drainage works for roadways. Hamilton Water supports the implementation of Low Impact Development works on single private residences provided there is assurance that proper ongoing maintenance is undertaken to achieve their operational goals.

If approved, ERO Posting 019-6853 - Streamlining Permissions for Water Takings for Construction Site Dewatering Activities and Foundation Drains would streamline permissions for temporary water takings including removing the current water taking limit of 400,000 litres of groundwater per day from one or more dewatered work areas at a construction site. Hamilton Water has the following concerns regarding the proposed streamlined process for construction dewatering:

- Increased groundwater flows from construction sites could result in surcharging of storm, sanitary and/or combined sewers and increase combined sewage overflows;
- Environmental Activity and Sector Registry postings for water taking should include consideration for municipal notification regarding local Environmental Activity and Sector Registry applications and allow for municipal access to the supporting technical documentation; and
- Consumption of conveyance and pumping capacity reduces available municipal servicing capacity to support growth and development.

The Ministry of Environment, Conservation and Parks is also proposing regulatory amendments to O. Reg. 387/04 under the *Ontario Water Resources Act* to exempt residential foundation drainage systems from requiring a Permit To Take Water for water takings of up to 379,000 litres of water per day which is significantly higher compared to the current limit of 50,000 litres per day. Hamilton Water is concerned that removal of 400,000 litres per day for construction areas and up to 379,000 litres per day

**SUBJECT: Opposition to the Environmental Permissions Modernization Policy
Proposals, Hamilton Water Response – HW.23.10 (City Wide)
– Page 4 of 4**

for foundation drains could have negative cumulative impacts especially with multiple water takings within an area or proximity to contaminated sites. Hamilton Water recommends that the Ministry of Environment, Conservation and Parks maintain the upper limit of 400,000 litres/day and provide for Permits To Take Waters above the limit, to ensure appropriate environmental protections are in place. Hamilton Water made several potential recommendations in the Environmental Registry of Ontario submission on how to mitigate this concern.

If approved, ERO Posting #019-6963 – Streamlining Environmental Permissions for Waste Management Systems under the Environmental Activity and Sector Registry would expand the types of waste management systems that could register including asbestos waste, biomedical waste, hazardous waste, and liquid industrial waste. The Ministry of Environment, Conservation and Parks is proposing to require all eligible waste management systems to carry an insurance policy of a minimum of \$2M including systems that manage liquid industrial, hazardous and biomedical waste.

The proposed revisions to Ontario Regulation 351/12 would also require coverage for spill clean-up of at least \$100K arising out of any one incident for haulers of non-hazardous waste and at least \$500K of coverage arising out of any one incident for haulers transporting liquid industrial, hazardous, and biomedical waste. Hamilton Water did not submit any comments on ERO Posting #019-6963.

If you require any further information on the above matter, please contact the Manager of Compliance and Regulations by email at Charlene.McKay@hamilton.ca or at (905) 546-2424 Ext. 2671.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Communication Update HW.23.10 – Environmental Permissions
Modernization Policy Proposals,
Hamilton Water Response to
Environmental Registry of
Ontario Postings